# Getting back to the table

Why two negotiation processes have failed:
Recommendations towards
democratic peacebuilding in Nepal

**Report by Thania Paffenholz**

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# 1. Introduction

After the second breakdown of negotiations at the end of August, 2003, Nepal is again at a very critical juncture: it will either be trapped into a long-term, protracted violent conflict or renewed dialogue between the main relevant, political actors will be started in the short-term. However, renewed dialogue will only have chances of success if it leads towards a peacebuilding process which addresses the root causes of conflict, and creates a vision for a future Nepal without violent conflict. In order to bring about such a constructive process, relevant national and international actors have to commence preparations now.

The following report is aimed at contributing to this process. It provides an overview of violent conflict and peacebuilding in Nepal, supplies the reader with a comprehensive analysis of the two failed negotiation processes in 2003 and in 2001, and proposes a comprehensive framework for democratic peacebuilding in Nepal.

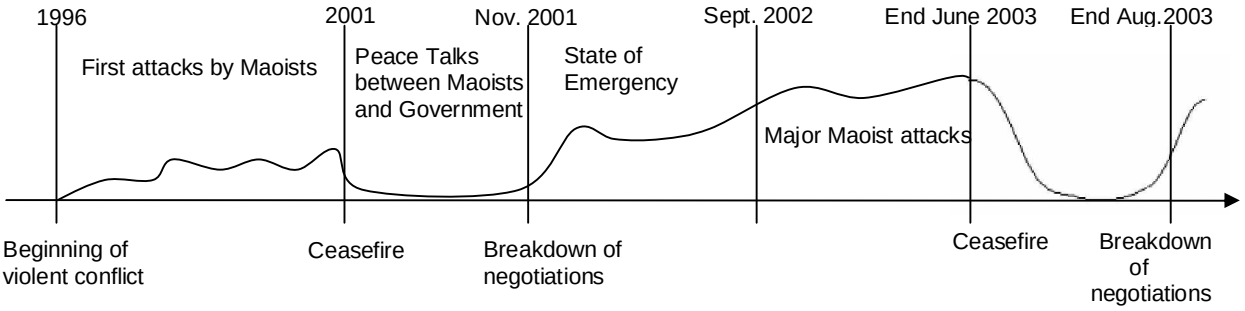
In Nepal, there has already been much discussion about why the negotiations have failed. Some feel that it is a lack of trust between the parties, while others are of the opinion that it is due to fundamental irreconcilable positions or to the poor handling of the negotiation process.

Taking a sober look at the situation, it is a remarkable fact that most of the reasons mentioned above were discussed as if all this were a matter for astonishment and part of a very special complication of the Nepali situation. No doubt, the Nepali conflict is a special one. However, mistrust and apparently irreconcilable positions in negotiations are standard situations in any negotiation in the world. People would not go to war if they trusted each other and thought that they could solve their disagreements easily.

Recently it has become popular in Nepal to talk about two different types of conflict, the conflict between the government/king and the Maoists on the one hand and the conflict between the government/king and the political parties on the other. These so-called two lines of conflict are often referred to as the conflict about peacebuilding and the conflict about democratisation.

There is a danger in making such a distinction, because it suggests that there are different strategies to be applied and priorities to be set. In reality, this is not the case, since democratisation in Nepal without peace is impossible, and there is no chance for sustainable peacebuilding without democracy. As a consequence, there is a need to apply one single strategic framework for democratic peacebuilding in the country.

# 2. Violent conflict and peacebuilding in Nepal: causes, phases, current dynamics [1]




## 2.1 Causes of conflict

Violent conflict in Nepal began in 1996 when the Maoists declared a "People's War".[2] The causes of violent conflict are to be found in a complicated web of different origins. This is the reason why different causes of conflict are frequently named. However, there are two main root causes of violent conflict in Nepal. All other causes are consequences or aggravating factors for either of the two:

The first root cause of the conflict is domestic and international pressure for a change from a traditional feudalistic system of governance to "modern" pluralistic forms of governance. This is often simplified to naming it a political conflict between non-inclusive governance such as a monarchy or an elite-ruled parliamentary democracy and a communist/Maoist view of a people's republic.

The second, however interlinked cause, is social, political and economic injustice and inequality leading to exclusion of major parts of the population due to a society divided by caste, ethnicity and religion.

In addition, in the Nepali conflict, several aggravating factors can be found: [3]

- poverty that makes a society more vulnerable to conflict,
- urban/rural disparity,
- high level of state corruption that fuels mistrust of people in the political system,
- weak governance,
- social mobilization of marginalized groups,[4]
- high level of polarization of the Nepali society[5] with party affiliations infiltrating into almost all sectors of society,

[1] This topic has been covered in depth in other reports, see EC Report from January 2002 and ICG from 2003 for the most comprehensive analysis but also the three reports of DfID (May 1999, May and August 2002), the BCPR/UN 2002, GTZ 2001, Paffenholz swisspeace 2002.

[2] For the history of the people's war in Nepal see: Seddon, David, pp. 3-10 and Dahal, Dev Raj, pp. 1-3.

[3] See Dahal, Dev Raj, page 5-7 and Phillipson (may 2002) page 10.

4 Social mobilization is an aggravating factor for conflict in the short term. This is a common contradiction between conflict prevention/management and democratisation. Mobilisation is creating conflict in the short term, however, it is a constructive form of conflict needed in the medium to long term.

[5] These developments are to be found more in the cities and towns rather than in the rural areas, see Philipson January 2002, pp. 10.

- the international war on terrorism that supports military solutions to violent conflicts and continually leads to the provision of military aid to the government of Nepal by different western governments, thereby fuelling the cycle of violence;
- human rights violations from all parties, additionally fuelling the cycle of violence and thereby potentially leading to a culture of violence in the medium term[6].

## 2.2 Phases of conflict

The early phase: 1996-2001

Violent conflict in Nepal has different components and phases: in the early phase violent attacks mainly on government property such as police posts and administration buildings started and human rights violations including many killings of "enemies of the revolution" took place (government employees, local "capitalists", for example, people objecting to the Maoist philosophy, but also men that were misusing power). However, the Maoists also tried to "win the people" over to their philosophy. They put forward 40 demands[7] politically centring around: the abolition of the monarchy and the introduction of people's governments, and socio-political issues focussing on justice. These demands aim at empowering women, the lower castes and other minorities, and also to counteract corruption, injustice, social inequality and foreign domination of the country.

The Nepali Maoists are following many of the original concepts of Mao Tse-tung with an orientation towards the adaptation of these concepts by the Peruvian Maoist movement, "Sendero Luminoso". Meanwhile, the Nepali Maoists have developed their own adaptation called "Prachanda Path". They are also linked to international Maoist parties and organizations.[8]

In the early years, the Maoists gained a lot of support throughout the country and they established "People's governments" in several districts. Furthermore, many women supported the Maoists.[9] During this early phase, the government saw the Maoist insurgency as a security problem to be addressed by the police. Thus, many human rights violations were committed by the police against Maoists and suspected Maoists.[10]

The second phase of violent conflict: November 2001 - January 2003

In the beginning of the next conflict phase, which began with the Maoists' withdrawal from negotiations in November 2001, the government declared a state of emergency for the entire country, and the king authorized the use of the army to fight the Maoists. Moreover, after 11th September 2001, the Maoists were declared terrorists. As part of the international anti-terror campaign, the US and British government began to support the Nepali government with military aid.

This led to a tenser situation all over the country involving roadblocks, curfews and a *de facto* abolition of the freedom of the press. Serious human rights violations from both the army and the Maoists increased. Human rights organizations reported atrocities

[6] This is a development which can be seen in many countries at conflict.
[7] See www.inhured·org/40_points_demands.html
[8] See Seddon p.p. 3-10 and Dahal, Dev Raj, pp. 2-3.
[9] Interview of the author with different women groups in Kathmandu August 2002.
[10] As the Maoists have a philosophy of being with and among the people, it is often hard to distinguish between Maoists and non-Maoists in the rural areas.

concerning mass rape of women and girls by soldiers and executions without trial and other accusations of human rights violations.[11]

The overall security situation in the country further deteriorated. Starting in September 2002, the Maoists gained military strength and launched major attacks against the security forces. Different parts of the country were affected in different ways. While the rural areas, especially in the mid-western areas, were heavily affected by the war, the entire Kathmandu Valley was not physically affected by the war at all.[12]

The political situation, too, became tenser: In October 2002, the king dismissed the then prime minister, Deuba, dissolved the cabinet and postponed parliamentary elections for an indefinite period. Nevertheless, the king's move was legal under Article 27(3) and 127 of the constitution, and hopes were raised that the monarch would support stability, peace and democratization in the country.

In the aftermath of these events, there were demonstrations by the major political parties resulting in confrontation with the king which are on-going to date.

The third phase of violent conflict: September 2003 - still going on

This conflict phase started with the second breakdown of negotiations at the end of August, 2003. Both warring parties (Maoists and Royal National Army (RNA)) have prepared themselves during the last seven months of ceasefire (see chapter 3.1) for an eventual restart of the war. With their new equipment and training, the RNM now feels more protected against direct confrontation with the Maoists, whereas the Maoists have started to apply a different military strategy. Instead of going for massive attacks on the army costly to human life, they have shifted to small scale attacks and to targeted assassinations and bombings. Moreover, they have enlarged their range of operations from rural areas, mainly in the mid-west, to the Terrai and the Eastern parts of the country as well as to the cities. The war restarted with bombings and targeted assassinations in Kathmandu in early September.[13] This marks a clear change in military strategy by the Maoists.

We can also observe both continuation and change in the recent political situation: the political conflict between the government/king and the political parties continues and is additionally fuelled by tensions within the government. Hopes that the king will take up a strong role for democratisation and peacebuilding have been frustrated. In mid-September it was expected that the King would announce the formation of an all-party government. However, this has not happened so far. On the contrary, and despite international pressure, the King does not seem to be supportive for a democratisation process.[14]

Due to continued pressure for democratisation from the international community, the government has now made some small concessions to re-install the elected local government bodies. The government rules out negotiations with the Maoists for the time being as well as the installation of an all-party government. Instead, the

[11] See Amnesty International Report on Nepal 2003 (December 2002) http://web.amnesty.org/report2003/npl-summary-eng.
[12] Interview of the author with different groups in Kathmandu August 2002.
[13] For details on the recent security situation and the tactics applied by the warring parties see: ICG report from October 2003.
[14] See ICG (October 03) and FAST report (November 03).

government is proposing to hold elections when the security situation is suitable. In other words, the situation of a government without democratic legitimisation controlled by the king might be there to stay for a while.[15]

Owing to the renewed war situation, the Royal National Army (RNM) has gained more political power, and democratic control of the armed forces seems far away. There is a risk that – in case the political and security situation does not stabilise – the king will allow the RNM to take over more political power.

### 2.3 Conclusions for the current dynamics of conflict

Firstly, this war will elude victory by military means as sufficient weapons are present in the country and the topography of Nepal lends itself to prolonged guerrilla warfare which is being exploited by the Maoist forces. Moreover, the Maoists – as part of their People's War philosophy - are prepared to fight for a very long time.[16]

Secondly, there is a danger of the militarization of politics; the worst-case scenario being the overthrow of the government by the RNM due to a lack of governance, escalated by the unwillingness of the king to strongly support urgently needed steps towards real democratisation and the gain in power by the army through external support and legitimisation by war.

### 2.4 Phases of the peace process

<u>First phase of the peace process: negotiations in 2001</u>
The peace process started in 2001 with the statement of the newly elected prime minister, Deuba, in favour of negotiations. When the Maoists responded positively, a ceasefire was ordered and three rounds of negotiations took place in August, September, and November 2001.

Each party had its own negotiation team and the talks were facilitated by two independent, highly respected Nepali civil society facilitators. Prior to the talks, the prime minister held all-party meetings and received a broad-based mandate for the dialogue.[17]

The Maoists started negotiations with two main demands: a new constitution and an end to the monarchy. For the third round, the Maoists were ready to compromise on the issue of the monarchy and demanded the installation of an interim government and elections for a Constituent Assembly that should decide on the constitution.[18]

During the third round of the negotiations a deadlock occurred on the above fundamental political issues leading to the end of talks when the Maoists walked out of negotiations and violent conflict flared up again (see chapter 3 for details).

[15] See ICG (October 03) and FAST report (November 03) and SDC report (September 03).
[16] See the writings of Mao, Tse-Tung from 1937 documented under http://www.maoism.org/msw/vol6/mswv6_idx.htm (28.11.2003).
[17] For more details please refer to Philipson (May 2002).
[18] See Dahal, Dev Raj, p. 9.

Second Phase of the peace process: preparing for renewed dialogue during 2002

After the breakdown of negotiations there were different attempts to prepare for renewed negotiations. In March 2002, the Maoist leader, Prachanda, offered a ceasefire to resume peace talks. The then president Deuba, however, ruled out peace talks before the Maoists surrendered their arms. Moreover, the political situation escalated towards the end of 2002 when the king dismissed the then prime minister, Deuba, dissolved the cabinet and postponed parliamentary elections for an indefinite period.

However, there had been a few local groups carrying on independent dialogue with the conflicting parties. Some of them were also supported by international governmental and non-governmental organizations in one way or another. Moreover, the UN as well as other bilateral donors tried to support peacebuilding in different ways. Both parties had however declined the role of external mediation.

Third Phase of the peace process: negotiations in 2003

At the end of January 2003, a ceasefire was agreed between the conflict parties. Three rounds of negotiations followed in April, May, and August 2003. Each party had a negotiation team and the talks were again facilitated by respected Nepali facilitators, two of them were already facilitators during the first round of negotiations in 2001. The four facilitators were seen as close to the negotiation teams – two were appointed by the government, two by the Maoists. However, they were only allowed the limited role of providing Good Offices during and between the negotiations.

The talks took place in a cordial atmosphere; however the situation was difficult due to a number of reasons (see details in chapter 3) and apart from this, there was a lack of confidence between the parties, which is normal in the beginning of negotiations. The process was additionally complicated due to the fact that the government changed during the negotiation period and only presented a negotiable proposal in the third round. However, by then, the position of the Maoists on their fundamental political issue of the Constituent Assembly had already become a 'make-or-break' issue, comparable to the end of negotiations in November 2001 (see above).[19]

When the RNM killed 17 unarmed Maoists with their hands tied behind their backs (the National Human Rights Commission later confirmed this event as a war crime), the Maoists ended negotiations and war recommenced at the end of August 2003.

Fourth Phase of the peace process: current trends since September 2003

There currently are two different opinions on the peace process: one group interprets the moves from the government, the king, the new tactics of the Maoists, and the stronger power of the RNM as signs that renewed negotiations will not take place for quite some time. The others still entertain hopes that violent confrontation will end in a couple of weeks or months as the parties will then have made their willingness to go to war clear enough for a next round of negotiations. Both groups, however, agree that the level of violence will escalate.[20]

There are also different peacebuilding activities going on. Most efforts are in the direction of supporting renewed negotiations either through military or peaceful means. Here, we can see different points of view of international players. The US, India and the

[19] Interview of the author with the facilitators in September 2003 in Kathmandu.
[20] Interview of the author with different groups in Kathmandu in September 2003; see also the latest press release by Amnesty International www.amnesty.org/library/index/engasa310832003.

UK favour an approach to peace through war, whereas most of the EU countries and smaller neutral states support dialogue and political options. The latter position is also supported by international and local civil society peace and human rights groups.

The main problem with all these attempts is that bringing the parties back to the negotiation table does not supply the only solution for successful negotiations. There is a need for a comprehensive framework for sustainable democratic peacebuilding (see proposal in chapter 4).

# 3. Why the negotiations failed in 2003 and 2001?

There are different discussions going on in Nepal on why the negotiations have failed.[21] The following chapter takes these different discussions into consideration, adds and compares them with the knowledge gained from peace research. From the analysis it can be seen that the triggers that led to the breakdown of negotiations in 2001 and 2003 were different; however, the immediate and structural causes of the breakdown were the same in both negotiation phases.

## 3.1 The immediate trigger of the breakdown in 2003

The immediate trigger of the breakdown of negotiations in 2003 was the killing of 17 Maoists and two civilians in Doramba during the third round of negotiations. An official investigation into the killings by the Nepali Human Rights Commission came to the conclusion that it was a war crime as defined under the Geneva Convention. The group was unarmed with their hands tied behind their backs and mostly shot in the head.[22] It was unclear whether this was done by local RNM commanders or whether it was a systematic plan by hardliners within the RNM with the intention to spoil the negotiations.

## 3.2 The immediate cause of the breakdown in 2003 and 2001

The immediate cause of the breakdown in talks in 2003 as well as in 2001 (in both negotiations during the third round) was a fundamental disagreement with regard to major political issues that were on the negotiation agenda. While the Maoists insisted that a Constituent Assembly should be held that would leave the option open for a fundamental change of the constitution, the government wanted only to go as far as amending the current constitution.

These two different negotiation positions caused stalemate on in the negotiations that led the Maoists to pull out of talks. Twice the Constituent Assembly became the 'make-or-break' issue that is regarded by many people as a structural disagreement that can hardly be solved.

However, going into negotiations with contradictory positions which seem impossible to reconcile is commonplace. If warring parties had positions easy to handle they certainly would not have gone to war for it! In negotiation theory and practice, there are many strategies on how to deal with such conflicting positions, and how to handle the past and future interests of the parties in order to find common ground.[23]

[21] See a reflection of many opinions in the ICG report from October 2003 as well as the analysis of Baburam Bhattarai, chief negotiator of the Maoists from September 2003.
[22] See Amnesty International press release www.amnesty.org/library/index/engasa310832003.
[23] See Fisher/Ury, Getting to Yes, as well as the two chapters on dealing with the future in Reychler/Paffenholz.

### 3.3 The structural causes of both failures in 2003 and 2001

There is a set of structural causes[24] accounting for the failure of both negotiations in 2001[25] and 2003[26]:

#### 3.3.1 Ripeness

A conflict must be "ripe for resolution", meaning that all parties involved in the conflict must have the perception that they can better achieve their goals through negotiation than by fighting.[27] This often takes a long time, since parties often do not understand that they can achieve more through a political settlement than by fighting. Too often parties believe that military victory is somehow possible. However, in reality this is rarely the case in guerrilla warfare.

In the Nepali context, too, there is a problem with 'ripeness' because the hardliners on both sides still believe in the possibility of military solutions to the conflict. This was an obstacle to both negotiation processes since it put the negotiation teams from both sides under pressure from their hardliners. This turns negotiable positions into hardliner 'make-or-break' positions and has a counterproductive impact on transforming these positions into valid interests and needs.

#### 3.3.2 Fundamental mistrust and suspicion

Besides the "make-or-break" issue of the Constituent Assembly, the issue of fundamental mistrust between the conflicting parties is also being discussed as one of the basic reasons for the negotiations failing on both occasions.

It is true that trust building is a very important issue during negotiations. However, all negotiations start with a lack of trust – again – people do not go to war if they trust each other and think they can solve their disagreements easily.

In addition, trust building is a long and difficult process that needs time. Nevertheless, it is an element of the negotiation process that can be supported by negotiation experts.

#### 3.3.3 Lack of involvement of all relevant, representative groups

This is one of the main factors that determine the success or failure of peace agreements. The logic is simple: if not all relevant groups are included in the process, they will not take ownership of the process and will either spoil the process or the agreement will not be representative and cannot therefore be successfully implemented. For example, the radical Palestinian groups have not been included in the Oslo Peace Agreement and do not feel bound by it. Local militia groups in the Congo have also been excluded, for example, from the peace process. They are now the main spoilers. The non-involvement of NGOs also proves to be an obstacle to sustainable peacebuilding. However, in practice it is difficult to involve all relevant players in the negotiations. The lesson is that is it necessary to involve all big players, even the

[24] In peace research there is much research on the conditions necessary for successful negotiation, see Stedman et al. 2002, and Reychler/Paffenholz 2001 (chapters on negotiations).
[25] For the analysis of the failed negotiations in 2001 see also Paffenholz, 'swisspeace report', August 2002 as well as Philipson May 2002.
[26] For the analysis of the failed negotiations in 2003 see also ICG report from October 2003 and the short article by Paffenholz in the newsletter of the UNDP Peace and Development Trust Fund, September 2003.
[27] See Zartman 1989, Kloeiber 1994 and Paffenholz in Berghof 2000.

unarmed, in the negotiations, and to build up adequate, official mechanisms to link the other groups to the official process. A good example is the peace process in Guatemala, where civil society had its own official assembly (Asamblea de la Sociedad Civil) that was installed parallel with the official negotiations. The civil society groups discussed the main issues relevant to peacebuilding and communicated them to the parties. Most of these issues where then included in the negotiation agenda. Moreover, all partial agreements were also discussed by the assembly.

In Nepal, the negotiation process was an exclusive one; major players such as the political parties and representatives from important civil society groups were excluded from negotiations.

### 3.3.4 One-track facilitation channels

Negotiations have failed, because there was only one channel, the official negotiation channel. For example, the successful peace agreement in Mozambique was only reached because it involved different mediators, negotiators and many informal facilitators behind the scenes: when one channel failed, the other continued.[28]

However, in Nepal, the main focus of the negotiation process was on the official negotiations between the conflicting parties. One such channel is not sufficient; other channels are needed that can step in when the process is at risk.

### 3.3.5 Lack of broad-based support for the negotiation process

Despite the fact that the dialogue solution was morally supported by almost the entire Nepalese society, there was no dynamic process in place to ensure sustained pressure on the parties to stick to the dialogue. Civil society organization's support of the peace process was far too weak.

### 3.3.6 Insufficient legitimacy of government

During the negotiation process in 2003, talks were additionally complicated by the fact that the government was not a democratically elected body. Its legitimacy was questioned and it remained unclear as to what extent the relevant players were talking to each other.

### 3.3.7 Inconsistent role of international actors

Many peace processes have also failed because of a lack of international support. However, it is crucial that this support promotes those working for peace in the country. The process must have ownership. But there are many support activities international players can fulfil.

In the Nepali process we cannot say that the international players have simply ignored it. However, their role has not been consistent. During both negotiation processes most international actors have taken a "wait-and-see" position, avoiding a proactive role due to different opinions on how to support the achievement of peace in Nepal (India, US

[28] See Paffenholz, Thirteen success factors, in Reychler/Paffenholz 2000 (negotiation chapter).

and Great Britain still support military solutions, whereas the other EU countries including Switzerland and Norway support non-violent solutions).
Owing to these differences, the international community is not speaking with one voice and thereby limiting its constructive influence on the process.

Moreover, peace processes are not in a vacuum. If the regional powers are not in favour of peace, they might in their turn become spoilers. Thus, it is important to involve them in one way or another in the wider peace process. In Nepal, the constructive engagement of India and China is crucial to the success of future negotiations and the peace process as such.

Furthermore, the general international environment must also to be taken into account. The war on terrorism has a direct effect upon peacebuilding in Nepal, because it strengthens the military forces and thereby indirectly supports military solutions to the conflict. Thus, any solution to the Nepali conflict must constructively engage those international players that support the military.

### 3.3.8 Poor Handling of negotiation processes

Many international observers to the situation have criticised the fact that in comparison with international standards, both Nepali negotiations were handled in an unprofessional way, simply because fundamental negotiation standards were not met.
This has led to pressure on both parties to engage in international mediation. However, the way the issue was treated has led to frustration on all sides. The negotiating parties wanted to protect themselves from losing control of the negotiation process. The negotiation teams and the facilitators were afraid that they might be regarded as a group of people without sufficient knowledge for dealing with negotiations, while the Maoist negotiation team tried to make it clear that it was the issue of the Constituent Assembly and not the lack of technical professionalism that made them walk out of the negotiations. On the contrary, the international donors could not understand why the parties were so much against professional support of the process.

Taking a sober look to the issue, the situation can be analysed as follows:

The issue had been discussed in a much too technical manner. However, in reality, professional handling of negotiations is mainly about strategic issues on how best to deal with constraints and challenges, conflicting negotiation positions, how to support the teams in dealing with their own hardliners and spoilers and much more. How to best deal with these issues is part of a profession called negotiator, mediator or facilitator[29]. It has also nothing to do with external or internal influence, national or international players – it is about expertise in dealing with these issues. Moreover, in political negotiations, those giving or supporting this type of professional expertise represent a crucial issue. Professional mediators, negotiators or facilitators need to be appointed by the conflicting parties and also need to have the skills mentioned above which enable them to professionally support the negotiation teams. It is therefore necessary to find out who has this expertise and who is suitable to support the Nepali parties in future negotiation processes.[30]

[29] For an understanding of the different roles see: Paffenholz, Western approaches to mediation in Reychler/Paffenholz 2000 (negotiation chapter).
[30] It is important that there should not only be one or two facilitators, but an entire arrangement with mediators and independent expert support teams for all negotiation teams.

Looking at these strategic issues, it becomes clear that in fact many negotiation standards have not been met with in both negotiations in 2001 and 2003:

No pre-talks: Instead of secret pre-negotiation or shuttle diplomacy, the parties immediately rushed into official negotiations, which put great pressure on the parties.
Unclear/inconsistent negotiation strategies by negotiation parties: Despite the common wish to solve problems by dialogue, there was no clear idea of how to go about it when the talks began in 2001. The same happened at the beginning of the 2003 negotiations. The Maoists had a clear negotiation agenda from the start, however, no clear strategy about how to reach it. The government only came up with a negotiable agenda during the third round of negotiations in August, 2003.
Positions were not transformed into interests: As in every negotiation, apparently irreconcilable positions had been proclaimed by the parties. But no attempt has been made to seriously work on these issues. For example, during the negotiations between Israel and Egypt at Camp David in 1978, both parties insisted on the Sinai strip being part of their territory for different reasons. This was a totally irreconcilable position as both wanted the same piece of land. With the help of mediators these positions could be transformed after long negotiation into the real needs and interests of the parties. Israel insisted on Sinai because of security fears, and Egypt insisted on Sinai for historical reasons. After this was clear, the issue could be solved. Egypt received the land and Israel security guarantees. Both negotiation processes in Nepal never got far enough to explore the needs and interests of the respective parties.
Lack of professional expert support for both the negotiation teams and the facilitators: Both teams and the facilitators could have been supported by independent negotiation expert teams as one of many preconditions for successful negotiations.
Lack of a communication strategy: There was no agreement on how to communicate to the media. This is an important strategic issue during a negotiation process, because the negotiation teams can land under pressure from their bases in case issues are presented in the wrong way at the wrong time. The right media strategy is therefore crucial to protect the process.
Lack of security arrangements: No negotiations among the military parties of either side took place. This is standard practice in negotiations as this type of security arrangement is a necessary precondition for the process to come into being. In addition, the debate on such arrangements among military personnel is a good confidence building measure. In many negotiations it is the military personnel from both sides which gets to understand each other better than the politicians.

### 3.3.9 Lack of a vision for a peaceful Nepal

Peace agreements mostly fail due to a lack of vision for peace. During a peace process the different parties must develop ideas on how the country should look when there is sustainable peace. This vision must be shared and discussed by all relevant sectors of society as part of a strategic discourse on the future of Nepal. These opinions must then be channelled back to the negotiation table and the peacebuilding process as such.

During both negotiation processes, the bargaining positions of the parties were pretty clear: the Constituent Assembly with the option of a greater change in the political system versus amendment of the existing constitution. Beyond this, nothing was clear. Talks centred only around the vehicles for change (Constituent Assembly or

amendments) but not at all on how a future Nepal would look without violence and armed conflict.

This makes it very difficult to support a process with an open end and gives way to scepticism and positions which hold on to the existing power instead of taking the risk of engaging in a process leading to an uncertain future. This also explains why there is little visible public support for the process. There is hardly anybody in Nepal today who does not want an end to violence and does not believe in peace – however, there is no public dialogue on what this peace should look like.

# 4. Towards democratic peacebuilding in Nepal: a comprehensive framework proposal

## 4.1 Understanding the framework

The framework comprises three circles:

***The inner circle with the main relevant political actors***

Actors:
Official negotiation parties

- Government
- The Palace (King or representative of the King)
- The Maoists
- The main political parties

Setting
These are the actors who sit at the negotiation table. In addition, there will be sub-negotiation committees to discuss the main relevant issues. For example, there must be a security commission comprised of military personnel from all the armed parties from the beginning.

Mandate
To reach a formal agreement.

Main negotiation agenda
There should be one main issue on the agenda: to reach an official agreement on the social, political and economic future of Nepal without violent conflict. It is crucial that discussions on envisioning the future are the starting point and not discussions to merely find a way how to get there. Nepal does not need a "Road Map" as in other peace processes, but a concrete and transparent discussion on the future.

Mediation support arrangement (MSA)
In order to support the negotiating parties there will be a mediation support arrangement in place comprising the following elements:
All negotiating parties will have the choice of either one or two mediation experts to support them.
Official Nepali and international mediators (chief mediators to be appointed) with a small expert support team.

***The first outer circle of civil society participation***

Actors
Relevant civil society representatives

Setting
In order to guarantee a broad-based support and the participation of relevant civil society groups, a Nepali National Peace Process Support Assembly (NPSA) is to be founded. The NPSA will have a central body probably based in Kathmandu and also sub-NPSAs in the regions.

Mandate and main negotiation agenda
The NPSA will have consultative status vis-à-vis the official negotiations: It will discuss the same questions of the future of Nepal and will come up with proposals that will be submitted to the official negotiations. Moreover, the NPSA will have the mandate to discuss all proposals arising from the official negotiations and will give recommendations.

Facilitation arrangement
The representative members of the NPSA who will be elected in the regions will choose a chairperson and a deputy chairperson for each Assembly (regional and national).

The chairpersons of the NPSA will also be supported by one or two facilitation/negotiation experts.

***The outer circle with international actors***

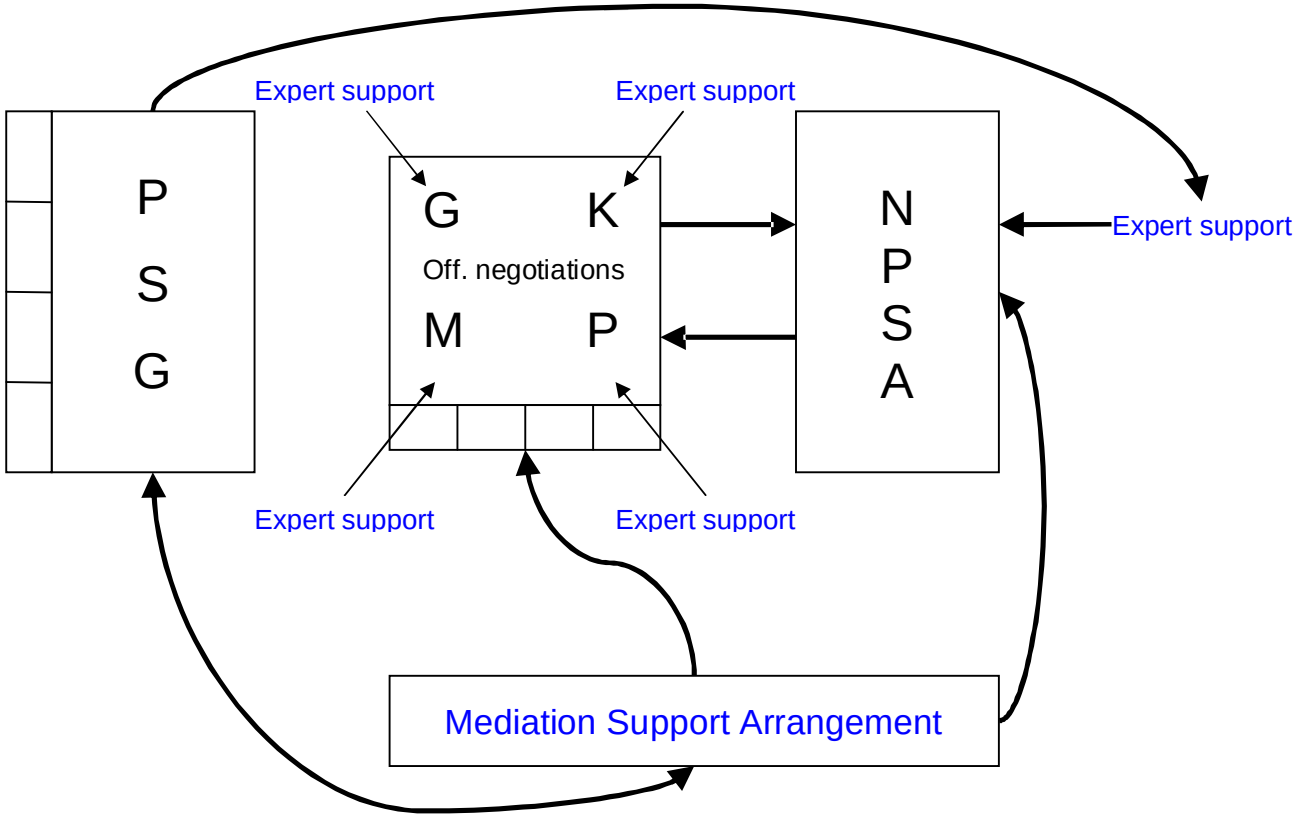
Actors
International Actors

Mandate
The international actors' mandate will be to support the process financially and logistically guarantee ownership and security.

Setting
In order to reach an organised, effective form of support, it is important that one actor take over a coordination function. It is advisable that this be the international actor in charge of the international part of the mediation arrangement (see MSA above).

All relevant, international actors (such as India, China, the USA, the EU and other like-minded donors such as Switzerland and Norway, plus relevant and accepted international NGOs) will organise themselves through a reorganised "Peace Support Group" (PSG). The PSG will also form sub-committees for providing effective support

to the different national circles. It is advisable that the different international actors become friends and sponsors for different arrangements. It is important that these sponsorships will be chosen according to the interests, feasibility and acceptance of the national actors. The PSG should be chaired by the United Nations Resident Coordinator as already institutionalised. The UN Resident Coordinator will send invitations to the members of this renewed PSG, and ensure participation of all relevant actors. In addition, there should be different chairpersons for the sub-groups.




PSG = Peace Support Group

NPSA = Nepali National Peace Process Support Assembly

G = Government

M = Maoists

K = King or representative

P = Political parties

### 4.2 Success factors and possible obstacles

In order to anticipate success or failure of such a framework, we need to have another look at the lessons learned from the two negotiations which failed in 2001 and 2003. On analysing the different failures, we see that most of them can be avoided with the assistance of the illustrated framework above for democratic peacebuilding in Nepal:

Trust building is usually difficult at the beginning; however it increases during the process, especially when parties work together on concrete issues.

In the proposed framework all relevant actors will be involved who have been left out in the past. The political parties will join the official negotiation process, especially through the institution of the Nepali National Peace Support Assembly (NPSA) which will allow the voice of the majority of Nepalese to be heard. In addition, the problem of having only one facilitation channel in the past will then be automatically avoided within the framework, since many actors will now be involved and feel responsible for the process. The same is true for the lack of a broad-based support for the process, which will be strengthened by the establishment of and the elections to the NPSA. Moreover, public support for the process will also be boosted during negotiations as the recommendations within the NPSA will be made transparent to the public. If the conflicting parties fundamentally disagree, public support can be easily mobilised.

Further, the lack of legitimacy of the government will not be an issue anymore since now all relevant parties will be involved at the negotiation table. Those who were previously excluded cannot be against the government or against the process, since they will now be part of the process itself and share responsibility.

Furthermore, the inconsistent role of international actors will automatically be compensated by their constructive and coordinated efforts within the third circle. To arrange these actors jointly will be one of the biggest challenges of the process. However, this will be one of the main issues determining the success of future processes because all these actors have an influence on the parties involved. Their constructive role is therefore of crucial importance for the entire process.

In order to professionalize the negotiation process, it is important to nominate Nepali and international mediators with a mandate to mediate between the parties. This is essential not only for the better handling of the negotiations as such, but also for the coordination of a complex, multi-stakeholder process. Therefore an experienced mediator who has been involved in a number of these processes before must oversee the mediation arrangement and the different support structures. However, it is also important that the chief mediator be accompanied by Nepali mediators as well as by a group of experts.

The last cause for failure in the process was the lack of a vision for a peaceful Nepal. This, therefore, must be the starting point of the official negotiations and discussions within the NPSA. During the last two negotiation processes the path to a future Nepal was always blocked by ostensibly irreconcilable positions (Constituent Assembly versus Amendment of the Constitution). It is therefore important that future negotiations do not recapitulate these issues. It is now important to discuss how the different parties in the inner circle and the civil society circle perceive a future peaceful Nepal.

The only remaining point is the issue of 'ripeness' that has not yet been discussed in the framework. However, getting the parties within the inner circle back to the negotiation table will be the starting point for the implementation of the framework. 'Ripeness' will come sooner or later; however 'ripeness' can be nurtured. 'Ripeness' is more about perceptions than realities. It suffices that the warring parties perceive that there is no solution to the problems of violent conflict in Nepal without dialogue. Making these perceptions stronger can be supported by international actors who have sufficient influence.

### 4.3 What can different actors do now?

The framework for democratic peacebuilding in Nepal is not a "wait-and-see" for a future scenario. It is important to start the process now!

The government will gain reputation in supporting a democratic peacebuilding process. General elections are not feasible at the moment and would also not contribute to the stabilisation of the country since the conditions have not yet been met. As experience in many other countries involved in violent conflict has shown, elections tend more to polarise a society than to contribute to stabilisation and reconciliation.

The same is true for the Palace. The King would guarantee himself an important role as a highly respected, recognised constitutional monarch in a future Nepal, if he became the guarantor of a democratic, peacebuilding process. For example, the Spanish King, Juan Carlos, twice took up just such a role at a critical phase after the death of the then Spanish dictator, Franco, in 1975. Juan Carlo started to support the democratisation process and took up an eminent role as a constitutional monarch. In a military coup years later, the King stood up against the military and reinstalled democracy. In this way he became the main guarantor for Spanish democracy and plays a very important and highly respected role in the country and indeed the world.

The Maoists will also gain national and international reputation in supporting a democratic peacebuilding process. It is now necessary for the Maoists to avoid being identified with human rights violations and terrorism. Moreover, in order to be prepared for the next round of negotiations, it is now time for the Maoists to start forming a concrete vision for the future of Nepal which will take the needs of the Nepali people in a modern and democratic world into consideration.

The political parties should continue to make their point clear that they must be part of the process.

Civil society groups must prepare for a future Nepali Peace Process Support Assembly (NPSA) now. It is important to start organising the different civil society groups in the regions and in Kathmandu in order to prepare for a more responsible role.

The international community, too, must prepare for a more cooperative approach to democratic peacebuilding in Nepal. How far this is possible should best be discussed in an enlarged Peace Support Group. It is therefore recommended inviting the missing relevant international and regional actors to participate in the PSG under the chairpersonship of the UN Resident Coordinator. This could make the work of the PSG more effective. In addition, international actors can also already contribute now to

supporting the civil society in becoming more organised across the country. Moreover, international actors can influence 'ripeness': they can speed up the process so that the government and the Maoists get back to the negotiation table and accept the involvement of the political parties by using all their influence and pressure such as partially withdrawing aid and other support for the government. With regard to the Maoists, informal dialogue and clear policy are now more important than a terrorist ban.

## 5. About the author

Thania Paffenholz is a research-practitioner specialized in mediation and other civilian peacebuilding interventions (track 1,2,3) as well as in the role of aid in peacebuilding.

She holds an M.A. in political science from the University of Munich (1990) and received her Ph.D. in international relations focusing on the theory and practice of mediation and peacebuilding in civil wars from the University of Frankfurt/Main, Germany (1996). After working as a research fellow at the Peace Research Institute Frankfurt (1992-1996) she held a position as peacebuilding officer within the Regional Delegation of the European Commission in Kenya (1996-2000). Thania Paffenholz joined the think tank swisspeace in Berne, Switzerland (2000-2003), holding the position of Project Director of the Center for Peacebuilding (KOFF) and was also Member of the Executive Board of swisspeace. Since early 2003 she has been teaching at the Institute of Political Science of the University of Berne and has also founded the policy advisory firm "Peacebulding Research and Advice" also based in Berne, Switzerland.

Thania Paffenholz is also a trained mediator, has participated in several missions of the United Nations and participated in different peace processes such as Angola, Afghanistan, Somalia or Mozambique. She is also advisor to different national and international organizations. Ms Paffenholz was also member of the Board of the UN Lessons Learned Unit, Department of Peacekeeping Operations (1996-2002) as well as Council Member of the International Peace Research Association (1994-2000). She has been lecturer in the International Peace-Keeping and Peace Building Training Programme in Schlaining, Austria (1993-1995), at the Department of International Relations at the University of Frankfurt (1995-1996) and at the United Nations University in Tokyo since 2003.

Thania Paffenholz supports the UNDP Trust Fund of Peace and Development in Nepal and has also worked with the Peace Support Group since 2002 and has recently begun to support the German Technical Cooperation (GTZ) in Nepal.

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